

REMARKS/ARGUMENTS

Amendments

The claims are modified in the amendment. The objection to claims 1 and 22 are addressed in the amendment in the manner suggested by the Examiner. Claims 1, 22, 23, and 38 have been amended and new claims 69-77 have been added. New independent method claim 69 is largely modeled after claim 1 so additional searching is not believed warranted. Therefore, claims 1-5, 21-24, 37-39, and 69-77 are presented for examination. No new matter is added by these amendments. Applicant respectfully requests reconsideration of this application as amended.

Interview

Yesterday and the other week, the Examiner granted interviews to discuss the outstanding Office Action and suggested amendments with the undersigned. Granting of interviews is always appreciated. The above amendments to claims 1 and 22 were discussed yesterday along with the argument briefly reiterated below. The amendment is believed to address the Examiner's concerns expressed in the interview.

35 U.S.C. § 102 Rejection, Smith et al. in view of Barber et al.

The Office Action has rejected claims 1-5, 21-24, and 36-39 under 35 U.S.C. § 102 as being unpatentable over the cited portions of non-patent literature document "*Tools and techniques for color image retrieval*" to Smith et al. (hereinafter "Smith") in view of the cited portions of U.S. Patent No. 5,579,471 to Barber et al. (hereinafter "Barber"). Applicants believe that Smith cannot be relied upon for teaching factors that are removed or included into a matching algorithm. Smith merely teaches that a value for one of the factors can be modified, for example the factor for color can be set to the value of purple to screen for purple images. Factors are not added or removed based upon an analysis of the image in Smith. For at least this reason, reconsideration of the claims is respectfully requested.

Appl. No. 10/767,216
Amdt. dated March 30, 2010
Reply to Office Action of September 30, 2009

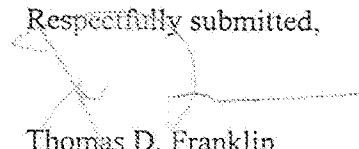
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CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 858-350-6100.

Respectfully submitted,


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Attachments
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